

FILED

February 19 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0552

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

TYSON LEE HAPPEL,

Defendant and Appellant.

FILED

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Koan Mercer, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until March 29, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 19th day of February, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

By: *Koan Mercer*
KOAN MERCER
Assistant Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as Chief Appellate Defender.

2. In that capacity I supervise Koan Mercer who has been recently reassigned to handle the above-entitled matter.

3. The Appellant's opening brief was first due on December 21, 2009.

4. It is presently due on February 26, 2010.

5. Mr. Mercer was only assigned to this matter on February 17, 2009, and, thus, will be unable to complete this brief in the previously allotted time.

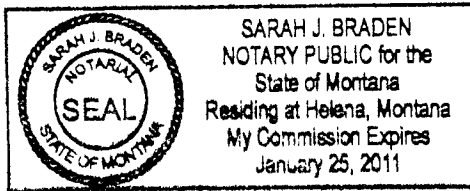
6. Mr. Mercer will work under my supervision to become familiar with this matter and complete the opening brief in a timely manner.

7. Opposing counsel has been contacted concerning this motion and does not object.

8. Further your affiant sayeth naught.

Joslyn Hunt
Joslyn Hunt

SUBSCRIBED AND SWORN to before me this 19th day of February,
2010.



Sarah J. Braden
Sarah J. Braden

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing

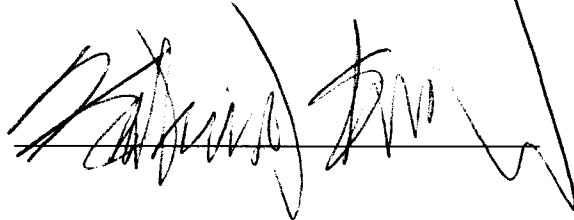
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

DENNIS PAXINOS
Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107-5025

TYSON LEE HAPPEL 3002269
Crossroads Correctional Center
50 Crossroads Drive
Shelby, MT 59474

DATED: 2/19/10

A handwritten signature in black ink, appearing to be "Tyson Lee Happel", written over a horizontal line.